NA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION OF ALLEGHENY ENERGY SUPPLY COMPANY, L.L.C., FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY FOR CONSTRUCTION OF A 1,080 MW (NOMINAL) GENERATING FACILITY IN SECTION 35, TOWNSHIP 3 NORTH, RANGE 11 WEST IN LA PAZ COUNTY, ARIZONA AND ASSOCIATED TRANSMISSION LINE AND SWITCHYARDS BETWEEN AND IN SECTION 35, TOWNSHIP 3 NORTH, RANGE 11 WEST AND SECTIONS 23-26, TOWNSHIP 3 NORTH, RANGE 11 WEST ALSO IN LA PAZ COUNTY, ARIZONA.	CASE NO. 116 DOCKET NOS: L-00000D-01-0116 L-00000B-01-0116 **STAFF'S BRIEF SUPPORTING THE REQUEST FOR REVIEW**

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby submits its brief advocating denial of the Certificate of Environmental Compatibility ("CEC") granted by the Power Plant and Transmission Line Siting Committee ("Committee"). Staff would respectfully request that the Commission deny the CEC for the reasons outlined below.

Staff cannot support the La Paz project because the project poses a threat to the reliability of the Arizona system. Need cannot be accurately measured without considering the reliability impacts of adding generation. The technical study evidence admitted shows that transmission lines will be adversely impacted without facilities improvements being made. While Applicant will counter that the transmission providers ("TPs") will mandate that Allegheny, the sponsor of the La Paz project (and hereinafter referred to as "Applicant"), fund for upgrades, that will not solve the problem. That is because the technical studies are not taking into account some 8,000 megawatts ("MW") of generation and are therefore not looking at the overall impacts on the Arizona transmission system

that the La Paz project will be affecting. Furthermore, there is no guarantee that the technical studies themselves or the peer groups that will review those studies will view reliability from the standpoint of not limiting access to more economical and less polluting sources of generation, and ensuring that no remedial action schemes will be used for single contingency (N-1) outages. Market forces alone cannot ensure a robust environment under electric restructuring. The Commission clearly has the jurisdiction under its statutory authority to consider reliability impacts as they pertain and relate to the need for generation.

Even if the Arizona transmission system were upgraded to meet Staff's reliability standard, Staff could still not support the project. This is because Staff is concerned about the size of the Palo Verde Hub and how big that hub should get. This issue has been left unstudied. Staff has undergone efforts to have a study commenced on how big the Palo Verde Hub should get, and what measures are needed to improve the security and reliability of a hub the size of Palo Verde. Because of the importance of that hub, Staff believes it is precarious at best to continue to site power plants that will affect the system reliability at the Palo Verde Hub, without a study being completed.

Should this Commission decide to approve the CEC granted by the Committee, Staff would recommend that the Commission modify the CEC by substituting or adding the conditions listed in Appendix A, herein attached and incorporated by reference. Those conditions, at least, mandate that Applicant will address the concerns laid forth by Staff in the hearings before the Committee and summarized in this brief.

STANDARD OF REVIEW

The Committee has the statutory authority to approve or deny an application, and impose reasonable conditions upon a CEC it issues. A.R.S. § 40-360.06(A). In reaching its decision on an application, it is required to consider various factors identified in A.R.S. § 40-360.06. These factors cover a broad range of areas, including but not limited to the project's impact on the total environment and its technical practicability. A party dissatisfied with the Committee's decision may request review of the decision by the Commission. By statute, the Commission reviews the record before the Committee, complies with the same factors listed in A.R.S § 40-360.06 and balances the broad public interest for the need for an adequate, economical and reliable energy supply of electric

power with the desire to minimize the effect thereof on the environment and ecology of the state. A.R.S § 40-360.07(B).

It is the standard of review in this case that is critically important. Staff believes that the Committee members can and should consider issues regarding reliability on the Arizona system as part of their analysis on whether to grant a CEC under A.R.S. § 40-360.06. As will be discussed below, there were indications during the Committee's deliberations that the reliability concerns put forward by Staff were to be given only limited weight in the ultimate decision. However, the Commission must consider these reliability impacts under A.R.S. § 40-360.07, as those issues represent one side of the balancing test that the Commission must perform. In other words, reliability is central to the Commission's analysis whereas the Committee has chosen to exercise discretion on how they want to deal with the issue of reliability.

In addition, the Committee heard evidence from Applicant supporting its case that its proposed project will be able to deliver its power and will have to undergo facilities improvements such that the physical transmission will not be overloaded. As will be discussed below, both Mr. Kevin Geraghty and Mr. Don Mundy testified extensively on behalf of Applicant about some of the reliability issues that are the focal point of Staff's concerns and analysis here. However, the Commission does have independent de novo review of the evidence presented on the record pursuant to A.R.S. § 40-360.07(B) and can make the ultimate decision on whether to approve, deny or modify the CEC granted by the Committee in this case. Based on the all the evidence and testimony presented before the Committee, Staff believes that this Commission should deny the CEC granted by the Committee. If the Commission decides to approve the CEC, Staff believes the conditions in Appendix A are supported by the record and address the concerns raised by Staff.

BECAUSE GENERATION AND TRANSMISSION ARE INTERTWINED, RELIABILITY IMPACTS MUST ALWAYS BE CONSIDERED WHEN EXAMINING NEED

Generation and transmission are forever married. One will always affect the other. As a result, one cannot consider proposed generation without looking at what it will do to transmission. If new generation adversely affects the transmission system, then that new generation has a negative

impact on the overall reliability of the Arizona system. The evidence before the Committee and before this Commission shows that the La Paz project will jeopardize the physical integrity of the transmission system and will likely prevent other efficient plants access to transmission. As explained below, reliability and need are inextricably linked because generation and transmission cannot divorce one another. Appendix B portrays Arizona's Extreme High Voltage (EHV) system and some of the transmission import constrained areas[1].

The need for power must be offset by the reliability impacts new generation causes. This is because new generation, if it interconnects in the wrong location, can inhibit access to other needed power to Arizona. Power can be physically constrained (not able to deliver via the transmission system) due to any number of factors. As a result, while there might be the need for more power, the particular location that new power will be delivered from can prevent other needed power from being delivered. In addition, there is a wrinkle to this equation in today's landscape. That is the concept of electric restructuring. Reliability must be redefined under this new arena. Per Staff's Biennial Transmission Assessment ("BTA"), reliability is broken down into two concepts, adequacy and security. Adequacy is having sufficient transmission import capacity to reliably serve all loads in a utility's service area without limiting access to more economical or less polluting remote generation (See BTA at 3). In other words, *the most efficient power plants must have access to the transmission grid and be able to serve load.* By efficiency, we mean able to produce the maximum power at the lowest cost (financial, environmental and otherwise).

One cannot truly understand the real impacts of new generation on the Arizona transmission system without taking into account *all* of the other generation that is either on or is going to be interconnected onto the Arizona system. This is precisely the problem with the scope of the technical studies undertaken by Southern California Edison ("SCE") for the La Paz project; it fails to look at the entire system and only views the La Paz project from the perspective of SCE's own system. As a result, the total impacts on the Arizona system cannot be accurately detailed by the SCE study. Despite any facilities improvements undertaken by SCE that Applicant will pay for, no guarantee exists that additional proposed generation will not be stranded at the Palo Verde Hub. Access is

[1] Appendix B was part of Staff's Exhibit S-1 admitted into evidence.

undermined and the Arizona customer suffers from lack of adequate power from the most efficient plants. Applicants will counter that the transmission will follow generation and that the TPs will build additional transmission. However, the situation at the Palo Verde Hub suggests otherwise. As Staff outlines in the BTA, the Palo Verde Hub is constricted. See BTA at 34-36. The TPs and the power plants are not addressing that constriction in a timely fashion. Furthermore, the facilities improvements required might address stability limitations, but they might not enhance capacity equivalent to the total output of the La Paz plant. This will lead to further constriction at the hub with no panacea in sight. But without studying all the proposed generation at the hub, it is doubtful even stability concerns of the integrated system can be adequately addressed.

From a security perspective, the scope of SCE's study poses additional problems. Staff defines security as having sufficient transmission capacity to reliably deliver a plant's full output of generation without use of remedial action schemes or displacing apriori generation at the same interconnection for single contingency (N-1) outages. (BTA at 3). System security plus adequacy equals system reliability. Without looking at all the proposed generation sited to interconnect at the Palo Verde Hub, the SCE technical studies fail to ensure that any measure designed to prevent adverse impacts on the system will negate the need for remedial action schemes. Therefore, from Staff's perspective, system security is still jeopardized.

Because generation impacts transmission, the need for additional efficient power must always be tempered with how it will affect the reliability of transmission as a whole. Mr. Don Mundy may be absolutely correct when he justifies the need for the La Paz project from a generation perspective, but if La Paz adversely affects the Arizona transmission system by either physically inhibiting other's use of the system or by stranding other efficient power supply sources, the Arizona system is deprived of reliable power. This is contrary to system reliability in the electric restructuring landscape and offsets the need factor. The adverse transmission impacts lie at the heart of Staff's position to not support this project.

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THE RELIABILITY CONCERNS PRESENTED ON THE RECORD SUPPORT THE ADOPTION OF STAFF'S PROPOSED CONDITIONS TO THE LA PAZ PROJECT

As explained above, Staff's main concern focuses on the physical constriction at the Palo Verde Hub and the fact that the interconnection studies undertaken by SCE do not consider impacts on the Arizona System. Mr. Kevin Geraghty testified about the system impact studies ("SIS'") and facilities studies that were being performed by SCE (Tr. at 147-48; 1011-21). A copy of the preliminary system impact study was admitted as Applicant's Exhibit A-29 (Tr. at 1027). That study did not include 8,000 MW proposed to interconnect at the Palo Verde Hub (See "Exhibit A-29" at 3; Tr. at 1022). Even without including that proposed generation at the Palo Verde Hub, the study showed that, under certain scenarios, both the Palo Verde to Devers 500 kv line ("PV/D") and the Palo Verde to N. Gila 500 kV line ("PV/NG") could be overloaded based on the ratings of those lines. (See Exhibit A-29 at iii, 9, 11).

Mr. Jerry Smith for Staff testified extensively about the transmission constraints at the Palo Verde Hub and the concerns Staff had regarding the results of the SIS performed by SCE. Mr. Smith stated that reliability is looked at from the standpoints of adequacy and security, meaning the assurance that sufficient generation and sufficient transmission capacity exists to meet the needs of consumers and that the system can continuously provide service, despite disturbances, within the safe and normal operation of the system. (Tr. at 1273-74). Mr. Smith's testimonial definitions of adequacy and security mirror those within the BTA. (See BTA at 3). Mr. Smith testified that constraints within the transmission system could jeopardize the safe and reliable operation of the electric grid even when a particular plant demonstrates the ability to deliver its particular electrons to a market. (Tr. at 1275-76).

The problem in this case, as Mr. Smith of Staff testified to, is that the generation from La Paz will certainly displace additional apriori generation at the Palo Verde Hub. (Tr. at 1277, 1280). This will add to the constriction at the hub. (Id.) The added generation from La Paz can also adversely impact the stability limitations on the transmission lines. (Tr. at 1305-06). The physical impacts will likely interfere with the goal of electric restructuring, which is to ensure all generators can physically deliver their power so that the most economical and most efficient power sources are able to get on the system and compete effectively. (Tr. at 1277). In other words, to have robust competition is the

key to a successful deregulated market. The key to such a market is to have a marketplace big enough, so that the most efficient power plants may join the fray as competitive entities. The marketplace here is transmission capacity. As the United States Supreme Court noted recently when discussing the purpose of FERC Order No. 888:

> The key to competitive bulk power markets is opening up transmission services. Transmission is the vital link between sellers and buyers. To achieve the benefits of robust, competitive bulk power markets, all wholesale buyers and sellers must have *equal access* to the transmission grid. Otherwise, efficient trades cannot take place and ratepayers will bear unnecessary costs. Thus, market power through control of transmission is the single greatest impediment to competition. Unquestionably, this market power is still being used today, or can be used, discriminatorily to block competition.
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> New York v. Federal Energy Regulatory Commission, Nos. 00-568, 00-809, 2002 WL 331835 at *7, quoting Notice of Proposed Rulemaking, FERC Stats. & Regs., Proposed Regs., 1988-1999, 32,514, p. 33,047, 60 Fed. Reg. 17662[2].

The responsibility is one for both the TPs and generation entities and either or both could exert market power. (Tr. at 1275). As Mr. Smith's analysis of Exhibit A-29 shows, the La Paz project presents a roadblock to this goal[3].

Mr. Smith testifies that Exhibit A-29, which is the SIS, shows that inadequate transmission capability exists to support Applicant's project. (Tr. at 1298). The report concludes that the La Paz project will have an adverse impact on generation already scheduled on the system at the Palo Verde Hub (Id.; see also Exhibit A-29 at ii). Furthermore, the SIS did not take into account the proposed 8,000 MW of generation to interconnect at the Palo Verde Hub. (Tr. at 1297, 1299). Because the SIS did not take into account the future generation proposed to interconnect at the Palo Verde Hub, the study failed to pick up stability limitations that mandates the transmission improvements out of the hub (Tr. at 1299-1302). In short, the scope of the SIS in Exhibit A-29 is internal to SCE and the California Independent System Operator ("CAISO") systems; the studies are not looking at the interconnected transmission system. (Tr. at 1302). Only an integrated system impact study will accurately identify transmission improvements needed so as not to adversely impact the Arizona system. (Tr. at 1303-04). In addition, the SIS allows the use of remedial action schemes for single

[2] Currently cited in the official Supreme Court Reporter as 535 U.S. ___ (2002).

[3] In addition to Mr. Jerry Smith's testimony, Staff's concerns are also explained in "Allegheny Power Project – ACC Staff Transmission Assessment", admitted as Exhibit S-3.

contingency outages, which is contrary advocated by Staff and required of all other Arizona plants. (Tr. at 1296-97; Exhibit A-29 at iv[6]). In short, Exhibit A-29, when final, and the accompanying facilities study will not address much of the concerns Staff testified to in this case. As a result, improvements undertaken by SCE funded by Applicant will likely be insufficient to ensure a reliable and secure Arizona system[4].

The bottom line is that due to stability limitations already noted at the Palo Verde Hub, Applicant's proposed project would strand additional generation (Tr. at 1305-06). This runs contrary to Staff's aims to ensure an adequate, reliable and secure system, which will ultimately supply Arizona consumers with the most economical power. (Tr. at 1348, 1380). The projects proposing to interconnect at the hub are the cleaner, more efficient plants (Tr. at 1347). Given the movement towards electric restructuring in Arizona, the goal is to ensure that a healthy market exists such that all competitors have access to buyers. (Tr. at 1396-97). Mr. Smith summarizes this concern as follows:

> The reality is that if additional transmission enhancements do not occur out of the Palo Verde Hub beyond what we've talked about today, moving forward with the La Paz project would mean that we're guaranteeing that more expensive generation that is high polluting generation would be operational in Arizona than would necessarily occur if there was the opportunity for all of the generation that the Palo Verde Hub could generate. That is not a good market environment. It's one that is environmentally flawed and it's cost effectively flawed because it has the most costly generation operational, and at the whims of a party that has blocked the opportunity for other competing plants.
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> (Tr. at 1398-99).

To ensure a healthy competitive market, all generators must have the ability to compete and have open access to the transmission to deliver to buyers in a market. (Tr. at 1397). The marketplace, transmission, must be big and stable enough to accommodate all competitors. Staff wants to ensure that the La Paz project does not sacrifice that aim (Tr. at 1397-98). Right now, that technical study work has not been performed. Without that technical study evidence looking at the Arizona system, Staff cannot ensure no adverse impacts to the system exist. As a result, the La Paz project poses a

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[4] As Mr. Smith points out in redirect examination, the situation here is different than what existed during the Arlington Valley – Duke II ("Case No. 117") proceedings. In that case, Staff had the technical study evidence from WATS showing the impacts on the Palo Verde Hub and showing that the upgrades would achieve the objective of enhancing transmission by the equivalent of total generating capacity. (Tr. 1394-95). Here, that study work does not exist. (Tr. at 1396).

threat to the system and to ensuring adequate and reliable power to the consumer.

Applicant might counter with a variety of arguments in attempt to assuage Staff's apprehension about the La Paz project. For one thing, Applicant will note that the SIS studies are but one half of the equation and that a facilities study is mandatory to determine how the problems noted in the SIS study are to be addressed. (Tr. at 467-69, 523-27, 1013, 1024). Applicant will point out that SCE and CAISO will require them to invest in facilities that were outlined in order to be allowed to interconnect. (Tr. at 1014). As a result, it is Applicant's argument that the system will not be compromised, due to SCE mandating that Applicant fund the upgrades prior to interconnection (Tr. at 1014, 1024, 1079-82). Furthermore, Applicant stated, and Staff agreed, that Applicant approached the right entities in order to interconnect. (Tr. at 1335-36). However, the problem that still remains is that because the *integrated system* was not studied, the full impacts of the La Paz project's interconnection on the Arizona system cannot be known. All upgrades identified in the facilities study by SCE would not solve the stability limitations outlined by Staff here because those variables were never considered as part of the SIS studies. (Tr. at 1299-1302, 1344, 1395-96). While Applicant might point to projects proposed to interconnect at the Palo Verde Hub that might not be built, future transmission projects face the same uncertain future (Tr. at 1379-80). The fact remains is that regardless of the ultimate outcome of other projects, the studies undertaken by SCE for Allegheny fail to consider impacts on the Arizona system. Finally, while counsel for Applicant indicated that a study plan will be presented to Western Area Transmission Systems group ("WATS") regarding interconnection, that study would have to include concerns outlined by Staff and ensure no adverse impacts to the Arizona system. (Tr. 1337-38)[5].

Mr. Don Mundy testified in Applicant's rebuttal case about the peer review process. He indicated that WATS and other groups will review the study plan, make comments, and approve the plan. (Tr. at 1593-1600). As he states, "utilities don't like people to mess around with reliability." (Tr. at 1596). However, while peer reviews from various groups will be undergone prior to the final reports being issued, it is tenuous whether SCE will incorporate those comments and whether those

[5] While Staff acknowledges its concern regarding constraints would be alleviated if the WATS study included the concerns of Staff, the issue of development of commercial hubs would still remain outstanding. (Tr. at 1338).

comments will include the concerns Staff has raised here[6]. More importantly, the standard for reliability for the utilities differs from what Staff is monitoring. As Mr. Mundy put it earlier in his testimony, the TPs are likely looking out to see that there are no adverse impacts to their physical system. (Tr. at 1079). This standard is different from Staff's aim to ensure that the system is adequate in that it does not displace apriori generation and will ensure that consumers receive the most economical power available (See BTA at 3). As stated above, the studies as they exist do not address that aim and still will likely be inadequate from Staff's perspective. As Mr. Mundy acknowledged in answering questions from Chairman Woodall, the peer group comments might not reflect those concerns of Staff. (Tr. at 1680-81).

To summarize, Staff does not believe that the SIS study performed by SCE (Exhibit A-29) takes into account the impacts on the Arizona system. Staff has no guarantee that the peer review process will incorporate its concerns. Therefore, Staff cannot support the project.

THE ISSUE BEFORE THIS COMMISSION CANNOT BE LEFT TO MARKET FORCES EXCLUSIVELY

In Applicant's rebuttal case, Mr. Kevin Geraghty brings up the point that the La Paz project will be able to compete in the marketplace in Arizona (Tr. at 1632-35). Mr. Geraghty disagrees with the notion that there must be one megawatt of transmission for one megawatt of generation because market forces will ensure the cheapest power gets to market (Tr. at 1635-36). He also states La Paz will not be big enough to exert market power (Tr. at 1636). However, the issue has never been whether La Paz itself can or cannot deliver to market. Clearly, the evidence leads one to believe that La Paz can and will be able to deliver. However, the bigger question concerns the impact on the marketplace itself should La Paz interconnect.

Staff's whole aim in this case, as in other cases, is to assure that sufficient transmission capacity exists so that Arizona consumers are the beneficiaries of the most economical sources for

[6] The groups that will review those studies include WATS, Southwestern Regional Transmission Authority (SWRTA) and WSCC. (Tr. at 1013, 1061-62). Some of these groups are comprised of members that include Arizona Public Service ("APS") and Salt River Project ("SRP"), as well as other the TPs. (Id.). Even though Arizona TPs can comment on the studies through these various groups, the SCE may or may not take those comments into account when revising the reports. To what degree Staff's concerns here are reflected in those comments from the Arizona TPs is uncertain. Finally, SCE might be hesitant to include generation outside of what is within the CAISO side of the system, regardless of Staff's concerns that might be echoed during those peer reviews (See Tr. at 1094-96).

power. What that means is that the most efficient, least polluting combination of plants be able to gain access to the markets. Staff's aim is to generate a healthy marketplace so that the most economical power shall be available for use by the retail consumer. In other words, the goal is to ensure that all efficient plants have access to the marketplace. In the wholesale electricity market, transmission is the marketplace. As Mr. Smith of Staff testified, "competition from a resource perspective does not necessarily mean that you eliminate another plant from operating because someone else may be needing that power." (Tr. at 1276). Furthermore, if we are to assume that La Paz is the most efficient, least polluting alternative, the market would benefit from La Paz competing with the second, third and fourth most efficient plants as well as the thirteenth, fourteenth, and fifteenth most efficient plants. The danger Staff is alerting of is that the impacts of La Paz on the system might artificially prevent the second, third, and fourth most efficient plants from competing with anyone, so that La Paz will be competing with plants significantly less efficient. This could prevent Arizona consumers from receiving the most economical power.

To use an empirical example, suppose Arizona needs 10,000 megawatts ("MW") of power and can only get 9,000 MW. Obviously, Arizona would need an additional 1,000 MW. Suppose a plant proposes to be built at Location A, but will prevent 1,000 MW at Location B from gaining access to transmission and from being able to ultimately get to Arizona customers. If 1,000 MW of new generation prevents 1,000 MW from being delivered, then Arizona only has access to 8,000 MW. Therefore, while Arizona has a need for 1,000 MW of power, a 1,000 MW plant at location A does nothing to improve need because it displaces 1,000 MW from Location B. If that plant from Location A adversely impacts the system from a reliability perspective, Arizona would suffer a net negative.

Expanding on the hypothetical above, now suppose Arizona has access to all 10,000 MW it needs. However, all of this 10,000 MW of this generation is the more inefficient high polluting generation within a load pocket at Location C. Now suppose 2,000 MW at Location B is sited and is the second most efficient power available, certainly significantly more efficient than the slop being produced at Location C. Now suppose the 1,000 MW at Location A is the most efficient power, but will prevent the 2,000 MW at Location B from gaining access to the transmission. Arizona would

still have 10,000 MW of power, but it would not be the most efficient combination of power available. Furthermore, having the 1,000 MW at Location A with 9,000 MW at Location C could likely be less efficient and therefore, less economical than having 2,000 MW at Location B with only 8,000 MW from Location C. In short, while Arizona could certainly use the 1,000 MW of maximum efficient power, reliability-wise the negatives from having that power generated and accessing transmission from Location A outweigh the positives of having the 1,000 MW power itself. The hypothetical above illustrates the potential threat posed by the La Paz project to a robust competitive market.

Staff believes that this issue it presented before the Committee is a reliability issue as defined by Staff and under the auspices of this Commission. Market forces are not going to solve the transmission crunch and are not going to ensure system reliability and security by itself. Staff believes that not only does the Commission have the authority under A.R.S. § 40-360.07(B) to look at these factors, but also that looking at these factors is essential to protect the Arizona consumer. This is not an issue of improper actions by Applicant or the result of some devious scheme employed by them. This is simply an issue of ensuring what is best for Arizona through the siting process. For those reasons, Staff believes the issue goes beyond that of market forces.

IT IS WITHIN THE JURISDICTION OF THIS COMMISSION TO LOOK AT RELIABILITY IMPACTS ON THE ARIZONA SYSTEM

Throughout the hearings, the jurisdictional argument was raised as to how appropriate it is for the Commission to consider these reliability concerns that tie into interconnection issues governed by the Federal Energy Regulatory Commission ("FERC"). Several of the Committee members expressed concern that these issues of reliability are better taken up by the Commission rather than the Committee (Tr. at 1732-34). There was significant debate between the parties and amongst members of the Committee over whether and/or how to consider issues of reliability by the Committee and to what degree are the issues raised by Staff better suited for the Commission and/or FERC. Staff believes that the Committee could consider such reliability issues when looking at the total environment of the area and the technical practicability of achieving a proposed objective under

A.R.S. §§ 40-360.06(6) and (7). (Tr. at 1262-63, 1724-28)[7]. However, it was unclear whether the Committee as a whole shared the same assessment. Before the Commission, the issue of whether the Committee can or cannot consider need becomes moot because of A.R.S. § 40-360.07(B).

The issue here, for Staff, is not that the Committee made an arbitrary decision. Rather, because the Committee struggled with whether and how to weigh reliability issues raised by Staff in this case, the Commission can and should revisit the issues raised by Staff. These issues of transmission reliability and access to more economical and less polluting generation are vital components of analyzing the need for reliable generation under A.R.S. § 40-360.07(B). Regarding the jurisdictional argument, while the Commission does not have the authority to approve or disapprove the actual interconnections governed by the FERC, this Commission clearly has the authority to approve of the *siting* of power generation. Staff's definition of reliability per the BTA requires that a plant must be able to deliver without displacing apriori generation and without the use of remedial action schemes. (Tr. at 1272-74). Therefore, this Commission has the authority to examine reliability impacts of an interconnection as it applies to siting of generation and transmission.

SHOULD THE COMMISSION DECIDE TO APPROVE THE CEC, STAFF'S CONDITIONS ARE NECESSARY TO AMELIORATE RELIABILITY CONCERNS OUTLINED BY STAFF

Should the Commission decide to approve the CEC granted by the Committee, Staff strongly advocates adopting the conditions detailed in Appendix A. While those conditions do not alleviate Staff's concerns about the La Paz project, the conditions focus on the issues at the heart of Staff's position. The Committee did not decide to adopt these conditions, perhaps out of an indication that such reliability issues are better left for the Commission's discretion.

Mr. Jerry Smith of Staff discussed the conditions that Staff proposed before the Committee and which are before the Commission here. Staff Condition Nos. 8, 11, and 41 proposed here in Appendix A deal with the issue of constraints at the Palo Verde Hub; the first of Staff's two major issues in this case. Those conditions were originally submitted as Exhibit S-4 and are reproduced here as Appendix A, with language conforming to what was discussed in hearings before the

[7] Applicant disagreed with Staff's position during the hearings (Tr. at 1265-66).

Committee. Staff's Condition No. 11 was to ensure that any proposed interconnection to the system by the La Paz project took into account proposed projects already approved by this Commission and that the Arizona system was protected from adverse impacts. (Tr. at 1306-07). It is an effort from Staff to bring all affected parties to the table and to look at the total impacts beyond what is looked at in the technical studies performed by SCE. (Tr. at 1309)[8]. Staff's Condition No. 41 is to ensure that, as close as possible to actual operation, technical studies are performed to show that the plant can run in accordance with WSCC criteria. (Tr. at 1316-17)[9].

Staff also discussed the two-line issue as part of its case. Staff's Condition No. 8 advocates two separate transmission lines from the plant switchyard to the electric grid. Mr. Smith testified as to why two separate lines to the plant conforms to best engineering practices. Staff has consistently advocated for two lines since the Red Hawk case. (Tr. at 1285). This has always been a system reliability issue for Staff (Tr. at 1286). Mr. Smith testified that two separate lines would maintain system reliability, specifically that the spinning reserve requirements of purchasers would not increase. (Tr. at 1286-88) Spending the money to build a second line in the present will keep the reserve requirement at the same level. (Tr. at 1288). With one line coming to and from the La Paz plant, the reserve requirement would equal the total output of the plant (nominally 1,080 MW), since the plant would become the single largest hazard on the PV/D line. (Tr. at 1287). This will lead to higher costs for maintaining a higher annual spinning reserve requirement. (Tr. at 1288). With two lines coming to and from the plant, the reserve requirement does not increase because the largest single hazard would not be augmented. (Tr. at 1287-88). Staff's Condition No. 8 ensures system reliability, regardless of the debate over consolidation of facilities. Staff's Condition No. 8 is necessary towards maintaining overall system security in Arizona[10].

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[8] The original Condition No. 11 proposed by Staff had such a study approved by the Palo Verde Engineering and Operations ("E&O") Committee (See Exhibit S-4). Upon reflection, Mr. Smith revised that condition slightly to reflect a peer review process more from an Arizona perspective (Tr. at 1326). Taking that into account, the revised Staff Condition No. 11, in Appendix A, indicates WATS to be the body approving such a study.

[9] In Exhibit S-4 before the Committee, this condition was cited as Staff's Condition No. 40.

[10] This is especially pertinent given that in other cases, Applicants who formerly fought the two-line condition have now subsequently requested that they be allowed to build a second separate line in and out of their plant. Furthermore, while there may be additional tax implications, as Applicant alludes to in their rebuttal, Staff would maintain that the overall issue should be on ensuring system reliability, rather than costs to the Applicant.

Finally, Staff's Condition No. 12 addresses the second major issue at the heart of Staff's case; how big should the Palo Verde Hub be? Mr. Smith expressed concern that the Palo Verde Hub was getting too large, but that studies should be undertaken to determine what standards should be imposed (Tr. at 1281). This was an issue brought up in past cases by Staff. (Tr. at 1259). Staff's Condition No. 12 would require Applicant to address this concern as part of a larger body and to participate in making improvements to the security and reliability of the Palo Verde Hub. (Tr. at 1314). Because the issue of the size of Palo Verde Hub needs to be addressed for security and reliability reasons, and has yet to be adequately addressed, Staff would still advocate that the CEC be denied. However, at the very least, Applicant would be obliged to participate in the study work and contribute funds towards improvements and upgrades beyond what is determined in SCE facilities studies, if determined to be necessary.

CONCLUSION

Staff wants to ensure that Arizona consumer receives the benefits of a robust market. To do so, the marketplace must be sufficient enough to allow access from the best combination of efficient plants. As it stands now, the La Paz project leaves too many uncertainties to ensure that the Arizona system reliability is preserved. The size of the Palo Verde Hub has not been addressed to date and must be to ensure continued system security and reliability. Staff's focus on system reliability of the transmission system is consistent with its focus in past cases. The CEC granted by the Committee does not ensure that the Arizona system reliability will be preserved. The Commission should deny the CEC granted by the Committee.

If the Commission decides to approve the CEC, Staff strongly advocates adopting Staff's proposed conditions in Appendix A which addresses the concerns Staff raised before the Committee.

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These conditions would assure that the La Paz project does not adversely impact the system. For those reasons, Staff would respectfully request that the Commission adopt all of the proposed conditions in Appendix A, should the Commission decide to approve the CEC.

RESPECTFULLY SUBMITTED this 11th day of March, 2002.

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Pursuant to R14-3-204 the ORIGINAL and twenty-five copies were filed this 11th day of March, 2002 with:

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Arizona Corporation Commission
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APPENDIX A

STAFF'S PROPOSED CONDITIONS FOR MODIFICATION OF THE CEC

STAFF'S PROPOSED CONDITIONS FOR MODIFICATION OF THE CEC

8. Applicant shall build two transmission lines connecting the Applicant's plant switchyard to the transmission grid on separate structures separated by a minimum of 200 feet.

(To substitute for Condition No. 8 in the CEC granted by the Committee)

11. Prior to construction of any facilities, Applicant must provide Staff a Detailed Planning Study report, reviewed and approved by the WATS Committee, demonstrating that the proposed Allegheny project has "no adverse impact" on the existing or planned Arizona transmission system and no adverse impact on the ability of existing or planned generation, with an ACC approved CEC, interconnecting at the Palo Verde Hub to deliver to their markets. If transmission improvements are required to achieve such technical demonstration, Applicant agrees to participate in the funding of such required facilities and ensure that construction of such facilities precedes occurrence of known transmission reliability and system security problems. Failure of such study to demonstrate a condition of "no adverse impact" on Arizona transmission and generation facilities shall result in Applicant's CEC being null and void.

(To substitute for Condition No. 11 in the CEC granted by the Committee)

12. Applicant agrees to participate in all future workshops and technical studies regarding the reliability and system security of the Palo Verde Hub. Furthermore, Applicant agrees to participate in funding of any and all transmission upgrades deemed necessary by Arizona transmission providers and Commission Staff to bring the Palo Verde Hub to the level of reliability and system security determined appropriate for a large commercial hub.

(To substitute for Condition No. 12 in the CEC granted by the Committee)

40. The Applicant, its successor(s) or assign(s) shall submit a self-certification letter annually listing which conditions contained in the CEC have been met. Each letter shall be submitted to the Utilities Division Director on August 1, beginning in 2002, describing conditions which have been met as of June 30. Attached to each certification letter shall be documentation explaining, in detail, how compliance with each condition was achieved. Copies of each letter, along with the corresponding documentation shall also be submitted to the Arizona Attorney General and the Directors of the Department of Environmental Quality, Department of Water Resources and Department of Commerce Energy Office.

(This condition is the same as Condition No. 40 in the CEC granted by the Committee, except for the fact that it adds the Arizona Department of Environmental Quality to the list of state agencies where a self-certifying letter shall be sent).

41. Applicant shall provide the Commission with a Palo Verde Transmission System E&O approved operational study report not more than 90 days preceding and not less than 60 days preceding commercial operation of its power plant. That study shall demonstrate

that sufficient transmission capacity exists at the Palo Verde Hub to accommodate the plant without reliance on remedial action schemes for single contingency outages. The studies shall model the Applicant's plant overlaid with all other power plants expected to be in operation and interconnected to the Palo Verde Hub prior to Applicant's plant. Failure of such studies to demonstrate the required reliable operation with Applicant's plant will result in suspension of commercial operation of Applicant's plant until needed transmission system improvements are made and the intent of this condition is satisfied.

(To be added to the CEC as Condition No. 41)

APPENDIX B

ARIZONA EHV TRANSMISSION

Arizona EHV Transmission